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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,367	09/16/2003	Michael Shackleford	1025-0002	9415
43536	7590	11/29/2006	EXAMINER	
MUSKIN & CUSICK LLC 1800 CALLOWHILL ST SUITE 200 PHILADELPHIA, PA 19130			LEIVA, FRANK M	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,367

Applicant(s)

SHACKLEFORD, MICHAEL

Examiner

Frank M. Leiva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/16/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/16/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. The applicant is not claiming the benefit of prior-filed provisional or non-provisional application.

Information Disclosure Statement

2. The information disclosure statement filed September 16th, 2003 complies with 37 CFR 1.97(d and e), and 37 CFR 1.98. It has been taken in consideration by the examiner.

Drawings

3. The drawings are objected to because of minor informalities as follow:
 - a. Fig. 5 is not a flow chart, but a block diagram. Block 514 should be included in block 500, and block 512 inside block 502 if a different direction is shown, it needs an if statement, also the description in the specs suppose to illustrate a "return" not shown in the drawing.
 - b. The specs are missing a description for Fig. 7.
 - c. Fig 14 shows a Communication Link that is not linking anything. If the link is mentioned in the spec, the applicant can add it to the drawings without being new matter.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheets should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining

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figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Claim Rejections - 35 USC § 112 1st Paragraph

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 11-50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The term "R" has been given a percentage ranges, yet not a percentages of what. Percentages are subject to a whole. Also the term "R" is defined in claims 7 – 9 as a ratio not a percentage.

Claim Rejections - 35 USC § 112 2nd Paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claims 4, and 7-10 recite the limitation "return" in the claims. There is insufficient antecedent basis for this limitation in the claim. The use of this term is not understood by the examiner, but for the purpose of continuing this examination the examiner will interpret it as meaning "value or number".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1- 61 are rejected under 35 U.S.C. 102(a) as being anticipated by Carrico et al. (US 6,416,407 B1).
10. Regarding claims 1,4-6, and 52-61, Carrico et al '407 teaches the use of a payable or payout table, the ranking of poker games, the dealing of five initial cards, selecting and discarding a fist round and a second round, determining and paying the player according to outcome rank, the use of a different payout table for the purpose of paying out the second draw hand, and the step where the player has the choice to end the game after the initial bet

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and not continue the game or receive the second draw, allowing the player to continue only through the trigger of a predefined condition (not a winning hand or a specific hand). (Col 2:60-67 and Col 3:1-14).

11. Regarding claims 2 and 3, Carrico et al '407 teaches where the first and second hands are not paid until final outcome of the game, and showing the cards to the player to make the decision to continue the game or not. (Claim 1: (6) and (9)).

12. Regarding claims 11 –50, Carrico et al '407 teaches the use of predetermined payout tables which are well known in the art to give a casino hold value of a certain percent for the game cycle. These limitations are notoriously well known requirements of the industry by the regulatory agencies. (See NPL Ken Moberly)

13. Regarding claims 7-10, and 51, Carrico et al '407 teaches the existence of a predefined pay table used to pay the player according to ranking, the examiner takes official notice that the mathematical equations for probability payouts are notoriously well known in the art, and depend directly to the type of game. (See NPL Ken Moberly)

Citation of Prior Art

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wichinsky et al. (US 6,435,509 B2) shows a multiple-draw poker game; Bennett (US 6,672,958) shows a multi-draw poker game; Slomiany et al. (US 6,612,927) shows a multi-stage, multi-bet game.

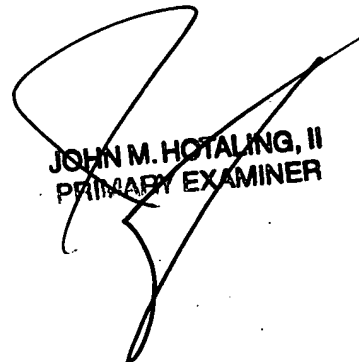
Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML


JOHN M. HOTALING, II
PRIMARY EXAMINER